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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MOUANG SAECHAO, individually and on behalf of all others similarly situated, Plaintiff, v. LANDRY'S, INC., a Delaware corporation, and McCORMICK & SCHMICK RESTAURANT CORP, a Delaware corporation, Defendants.	Case No. 3:15-CV-00815-WHA **DECLARATION OF DAVID M. BRESHEARS IN SUPPORT OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

I, David M. Breshears, hereby declare:

1. I am an individual over the age of 18 years and a non-party to the above-titled action. The facts set forth herein are personally known to me, and I have firsthand knowledge of the same. If called as a witness, I could and would competently testify thereto.

2. I am a Certified Public Accountant, licensed in the State of California, and Certified in Financial Forensics. I am currently a partner at Hemming Morse, LLP, CPAs, Forensic and Financial Consultants. My office is in Walnut Creek, California. My work in the accounting profession includes experience as an auditor and as a consultant. My expert qualifications, including my testimony, are described in Exhibit A hereto.

3. I have consulted on and/or testified in over 120 matters involving wage and hour-related disputes, including those arising under the FLSA and the California Labor Code. These matters have involved allegations of unpaid overtime, off-the-clock work, meal and rest break violations, employment misclassification, time shaving, record keeping violations, reporting time pay, split shift pay, and unreimbursed business expenses.

4. My firm has been compensated for my review and analysis in this matter at my standard hourly rate of $440 per hour. Others have assisted me in my work and my firm has been compensated for their work at their standard hourly rates.

Assignment

5. I have been retained by counsel for the named Plaintiff and others similarly situated in the matter of Saechao v. Landry's, Inc. et al. Among other things, Plaintiff has alleged that she and other hourly, non-exempt employees at Spenger's Fresh Fish Grotto in Berkeley, California (1) were not provided with all required and timely meal and rest breaks and were not properly compensated for meal and rest breaks that were not provided and untimely and (2) were not

properly compensated for working split shifts. I have been asked to review time and payroll records as they relate to these class-wide allegations since February 23, 2011. However, the time records provided to me only date back to February 25, 2011.

6. Based on the class list[1], there were 241 hourly employees from February 25, 2011 to August 31, 2015. It appears that, based on the hire and last punch dates, 121 hourly employees could have received a paycheck between February 23, 2014 and June 16, 2015.

Evidence Considered

7. In undertaking my assignment, I have considered information from a variety of sources, each of which is of a type that is regularly relied upon by experts in my field. Those sources are identified throughout this report, as well as in Exhibit B to this declaration.

8. Specifically, I have relied on documents that can generally be described as time punch data or pay data. As of the date of this declaration, full and complete data has not been produced by defendant McCormick & Schmick Restaurant Corporation ("MSRC" or "Defendant"), as there are no payroll records for the periods from October 20, 2011 through December 14, 2011, November 7, 2012 through December 23, 2012, and August 18, 2015 through August 31, 2015.

9. I have been provided with a Microsoft Excel file "SPENGER'S000332 – 001038", which contains, among others, the following 2011 – 2012 time punch information: (1) assigned employee reference number, (2) job title, (3) shift date[2], (4) punch in and out times[3], and (5) related hours. This time punch file covers the period from February 25, 2011 through December 31, 2012, and appears to include information for approximately 27,000 shift dates attributable to 134

[1] *See* SPENGER'S000001 – SPENGER'S000009.

[2] It appears that the date is a shift date and not a punch date as named.

[3] As the order in which the punch in and out times were provided does not appear to reflect the chronology of when employees actually worked, the time punch entries have been re-sorted to minimize the gaps between instances of recorded time within a shift date. I have adjusted the shift dates of approximately a dozen entries and excluded two entries with negative related hours.

employees.

10. I have also been provided with a Microsoft Excel file "SPENGER'S001039 - 001614", which contains, among others, the following 2013 – 2015 time punch information: (1) assigned employee reference number, (2) job, (3) shift date, (4) punch in and out times[4], (5) related regular, overtime, and total hours, and (6) punch out and in times related to employee breaks if this function in the timekeeping system was used. This time punch file covers the period from January 1, 2013 through August 31, 2015, and appears to include information for approximately 34,600 shift dates attributable to 172 employees.

11. As such, I have used the punch in and out times in these time punch files to determine, for each assigned employee reference number and shift, the number of recorded hours, as well as the number and duration, if any, of recorded breaks. I have been asked by counsel to assume a new shift when the shift date changes or when there is a gap greater than one hour between two instances of recorded time within a shift date.

12. My analysis of the time punch files currently includes 62,398 shifts with recorded hours attributable to 241 employees.

13. I have also been provided with a Microsoft Excel file "SPENGER'S002571", which contains, among others, the following 2011 pay information: (1) assigned employee reference number, (2) check date[5], (3) earnings code[6], if any, (4) related hours/units, and (5) related earnings amount. This pay file covers the period from February 10, 2011 through October 19, 2011, and

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[4] As the order in which the punch in and out times were provided does not appear to reflect the chronology of when employees actually worked, the time punch entries have been re-sorted to minimize the gaps between instances of recorded time within a shift date.

[5] Based on my review of time and payroll records, it appears that the standard pay period was bi-weekly and that the start of a pay period could be calculated by counting three Thursdays back from the check date.

[6] Defendant has provided a June 2011 ADP Master Control Company Options file, which lists the descriptions of the earnings codes. *See* SPENGER'S065390-065394. It appears that hours and earnings amounts without an earnings code are related to regular or overtime hours.

appears to include information for approximately 1,200 employee pay periods attributable to 90 employees. For purposes of this declaration, hours without an earnings code or with an earnings code of "D" (i.e., double time) are considered compensable hours paid, units with an earnings code of "18" (i.e., "MP") are considered missed break pay, and units with an earnings code of "E" (i.e., split) are considered split shift pay.

14. I have been provided with a Microsoft Excel file "SPENGER'S002573", which contains, among others, the following 2012 pay information: (1) assigned employee reference number, (2) period ending date, (3) check date[7], (4) regular, overtime, double time, and total hours, (5) related regular, overtime, double time, and total gross pay, (6) other gross pay, if any, (7) additional pay, if any, and (8) tips, if any. This pay file covers the period from December 15, 2011 through November 6, 2012, and appears to include information for approximately 1,550 employee pay periods attributable to 104 employees. For purposes of this declaration, regular, overtime, double time, and total hours are considered compensable hours paid. Other gross pay and additional pay are conservatively assumed to be missed break pay, if amount is a multiple of the related base hourly rate.

15. I have been provided with "SPENGER'S001616 – SPENGER'S002569", which contains, among others, the following 2013 - 2014 pay information: (1) assigned employee reference number, (2) date paid, (3) earnings description, (4) related hours/units, and (5) related earnings amount. This pay file covers the period from December 24, 2012 through December 22, 2014, and appears to include information for approximately 3,350 employee pay periods attributable to 145 employees. For purposes of this declaration, hours with an earnings description of "Landry's Time Entry", "OT Pay", or "Double Time" are considered compensable hours paid,

[7] Based on my review of time and payroll records, it appears that, beginning September 2012, the start of a pay period could be calculated by counting three Tuesdays back from the check date.

units with an earnings description of "Missed Break Pay" are considered missed break pay, and units with an earnings description of "Shift Pay" are considered split shift pay.

16. I have been provided with wage statements, which contain, among other things, the following 2015 pay information: (1) assigned employee reference number[8], (2) period start and end dates, (3) earnings name, (4) related hours, and (5) related earnings amount. These wage statements cover the period from December 23, 2014 through August 17, 2015, and appear to include information for approximately 950 employee pay periods attributable to at least 88 employees. For purposes of this declaration, hours with an earnings name of "Regular", "Overtime", or "Double Time" are considered compensable hours paid, units with an earnings name of "Missed Break Pay" are considered missed break pay, and units with an earnings name of "Shift Pay" are considered split shift pay.

17. My analysis of the pay files and wage statements currently include 7,011 employee pay periods[9] with compensable hours paid attributable to at least 238 employees. Of the 7,011 employee pay periods, I could match (within 0.05 hours) the compensable hours paid to the related recorded hours in the time punch files for 6,782 employee pay periods. Of the 229 employee pay periods I could not match (within 0.05 hours), 40 relate to employee pay periods for which there appears to be no time punch data.

Re: Meal Breaks

18. I have been informed by counsel that (absent a valid waiver) Defendant is required by California law to provide employees with (1) an uninterrupted meal break of at least 30 minutes for each shift an employee works in excess of five hours, with the meal break beginning before the end of the employee's first five hours of work, and (2) a second meal break of at least 30 minutes

[8] There are three 2015 wage statements with no assigned employee reference number.
[9] Beginning February 24, 2011.

for each shift an employee works more than ten hours, beginning before the tenth hour of work.

19. I have determined the number of shifts with recorded work hours in excess of five hours and no recorded meal break of at least 30 minutes[10]. I have also determined the number of shifts with recorded work hours in excess of ten hours and no recorded second meal break of at least 30 minutes. Additionally, I have determined the number of shifts where there was no recording of a meal break of at least 30 minutes until after an employee's first five hours of work, as well as the number of shifts where there was no recording of a second meal break of at least 30 minutes until after ten hours of work.

20. I have also been informed that if an employee is not provided a required meal break, the employee may be owed an extra hour of wages as premium pay.

21. Of the 62,398 shifts with recorded hours in the time punch files, there are 23,927 shifts in excess of six hours. Of these 23,927 shifts in excess of six hours, I have identified that 7,815 shifts, or 32.7%, showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until after an employee's first five hours of work. I have determined that 86.3% (i.e., 208) of the 241 employees experienced at least one such potential missed or late first meal break.

22. Of the 7,815 shifts in excess of six hours that showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until after an employee's first five hours of work, I was able to compare 7,031 shifts[11] to the related number of missed break pay entries in the pay files and wage statements. I have identified that in 2,134, or 30.4%, of these 7,031 shifts, the employee appears to have been paid an extra hour of wages as premium pay. As

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[10] i.e., no recorded break or a recorded break of less than 30 minutes.

[11] There are 784 shifts in excess of six hours that showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until after an employee's first five hours of work for which there appears to be no pay data.

such, I have identified that in 4,897, or 69.6%, of these 7,031 shifts, the employee does not appear to have been paid an extra hour of wages as premium pay, and I have determined that 66.0% (i.e., 159) of the 241 employees experienced at least one such unpaid potential missed or late first meal break[12].

23. Of the 16,112 shifts in excess of six hours with no potential missed or late first meal break[13], there are 215 shifts in excess of ten hours. Of these 215 shifts in excess of ten hours, I have identified that 176 shifts, or 81.9%, showed no recorded second meal break of at least 30 minutes or no recorded second meal break of at least 30 minutes until after ten hours of work. I have determined that 30.3% (i.e., 73) of the 241 employees experienced at least one such potential missed or late second meal break.

24. Of the 176 shifts in excess of ten hours that showed no recorded second meal break of at least 30 minutes or no recorded second meal break of at least 30 minutes until after ten hours of work, I was able to compare 173 shifts to the related number of remaining missed break pay entries in the pay files and wage statements. I have identified that in 51, or 29.5%, of these 173 shifts, the employee appears to have been paid an extra hour of wages as premium pay. As such, I have identified that in 122, or 70.5%, of these 173 shifts, the employee does not appear to have been paid an extra hour of wages as premium pay, and I have determined that 23.7% (i.e., 57) of the 241 employees experienced at least one such unpaid potential missed or late second meal break.

25. Of the 62,398 shifts with recorded hours in the time punch files, there are 21,715 shifts in excess of five hours up to and including six hours. Of these 21,715 shifts in excess of five hours up to and including six hours, I have identified that 17,871 shifts, or 82.3%, showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until

[12] The number of affected employees may be conservative, as it does not take into account those shifts for which there appears to be no pay data.

[13] Limited to one potential missed or late meal break per shift.

after an employee's first five hours of work. I have determined that 93.4% (i.e., 225) of the 241 employees experienced at least one such potential missed or late first meal break.

26. Of the 17,871 shifts in excess of five hours up to and including six hours that showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until after an employee's first five hours of work, I was able to compare 16,465 shifts[14] to the related number of remaining missed break pay entries in the pay files and wage statements. I have identified that in 181, or 1.1%, of these 16,465 shifts, the employee appears to have been paid an extra hour of wages as premium pay. As such, I have identified that in 16,284, or 98.9%, of these 16,465 shifts, the employee does not appear to have been paid an extra hour of wages as premium pay, and I have determined that 91.7% (i.e., 221) of the 241 employees experienced at least one such unpaid potential missed or late first meal break[15].

Re: Split Shifts

27. Of the 62,398 shifts with recorded hours in the time punch files, there are 769 split shifts (i.e., when there is a gap greater than one hour between two instances of recorded time within a shift date) attributable to 121 employees. Of the 769 split shifts, it appears that 427, or 55.5%, were worked by employees who were paid minimum wage and 261, or 33.9%, were worked by employees who were paid above minimum wage. There are 81 split shifts for which there appears to be no pay data.

28. Of the 769 split shifts, I was able to compare 688 shifts to the pay files and wage statements. I have identified that in 173, or 25.1%, of these 688 shifts, the employee appears to have been paid "Shift Pay", which I understand is how Defendant denotes split shift premium pay.

[14] There are 1,406 shifts in excess of five hours up to and including six hours that showed no recorded meal break of at least 30 minutes or no recorded meal break of at least 30 minutes until after an employee's first five hours of work for which there appears to be no pay data.

[15] The number of affected employees may be conservative, as it does not take into account those shifts for which there appears to be no pay data.

As such, I have identified that in 515, or 74.9%, of these 688 shifts, the employee does not appear to have been paid "Shift Pay", and I have determined that 44.0% (i.e., 106) of the 241 employees experienced at least one such unpaid potential split shift. Of the 515 split shifts where the employee does not appear to have been paid "Shift Pay", it appears that 337, or 65.4%, were worked by 68 employees who were paid minimum wage.

29. Of the 688 split shifts that I was able to compare to the pay files and wage statements, 237 relate to 2011 pay information. I have identified that in 158, or 66.7%, of these 237 shifts, the employee appears to have been paid "Shift Pay", and I have identified that in 79, or 33.3%, of these 237 shifts, the employee does not appear to have been paid "Shift Pay". I have determined that 14.5% (i.e., 35) of the 241 employees experienced at least one such unpaid potential split shift. Of the 79 split shifts where the employee does not appear to have been paid "Shift Pay", it appears that 63, or 79.7%, were worked by employees who were paid minimum wage.

30. Of the 688 split shifts that I was able to compare to the pay files and wage statements, 242 relate to 2012 pay information, in which "Shift Pay" has not been separately identified. Of these 242 split shifts, it appears that 164, or 67.8%, were worked by employees who were paid minimum wage.

31. Of the 688 split shifts that I was able to compare to the pay files and wage statements, 209 relate to 2013 through 2015 pay information. I have identified that in 15, or 7.2%, of these 209 shifts, the employee appears to have been paid "Shift Pay", and noted that the gap with respect to these split shifts was greater than 75 minutes[16]. As such, I have identified that in 194, or 92.8%, the employee does not appear to have been paid "Shift Pay", and I have determined

[16] The gap was between 76 and 90 minutes with respect to five of these split shifts and was greater than 90 minutes with respect to 10 of these split shifts.

that 27.0% (i.e., 65) of the 241 employees experienced at least one such unpaid potential split shift. Of the 194 split shifts where the employee does not appear to have been paid "Shift Pay", it appears that 110, or 56.7%, were worked by employees who were paid minimum wage.

Re: Rest Breaks

32. I have been informed by counsel that Defendant is required to provide employees who work at least three and one-half hours in a shift with a paid rest break of at least ten minutes for every four hours worked or major fraction thereof. I have also been informed that if an employee is not provided a required rest break or is not provided such break, the employee is owed an extra hour of wages as premium pay.[17]

33. Of the 62,398 shifts with recorded hours in the time punch files, there are 58,785 shifts of three and one-half hours or more. I have determined that 99.2% (i.e., 239) of the 241 employees experienced at least one such shift of three and one-half hours or more. Defendant's pay files do not denote in the "missed break pay" field whether the pay is a meal break premium or a rest break premium.

[17] Of the missed break pay and split shift pay in the pay files and wage statements that I compared to the related time punch data, there are 95 missed break or split shift pay instances that could not be assigned to a potential missed/late meal break or split shift. Of these 95 instances, 16 relate to split shift pay, 17 relate to missed break pay, and 62 relate to assumed missed break pay in 2012.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 1/28/16 at Walnut Creek, California.

David M. Breshears

EXHIBIT A

EXHIBIT A

HEMMING MORSE, LLP
CERTIFIED PUBLIC ACCOUNTANTS, FORENSIC AND FINANCIAL CONSULTANTS

CURRICULUM VITAE

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David M. Breshears, CPA/CFF

Employment & Education

2012 – Present	**Hemming Morse, LLP** ***Certified Public Accountants, Forensic and Financial Consultants*** Partner
1999 – 2011	**Hemming Morse, Inc.** Director, 2011 Manager, 2006-2010 Associate Staff Accountant
1998	**California State University, Chico** B.S. Accounting

Professional & Service Affiliations

- Certified Public Accountant, State of California, since 2006
- Certified in Financial Forensics, since 2008
- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants
- Association of Certified Fraud Examiners (Associate Member)

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Presentations & Seminars

- *"E-Discovery & Electronically Stored Information 101"*
  Beeson Tayer & Bodine, May 2013
- *"How to Collect, Produce, and Use E-Documents: A Practical Primer"*
  BASF - Labor & Employment Conference, Yosemite, February 2013
- *"Forensic Accounting for Today's Busiest Practice Areas"*
  Continuing Education of the Bar-California, March 2012
- *"Utilizing Experts in Wage and Hour Litigation"*
  Buchalter Nemer, July 2011
- *"Class Action Employment Litigation"*
  California Socity of Certified Public Accountants-State Steering Committee, August 2010
- *Adjunct Professor, Golden Gate University, Wage & Hour Damages, Spring 2009, Fall 2009, Spring 2010*

Testimony

Trial

- **Honora Keller et al v. The Board of Trustees of California State University (2015)**
  Superior Court of the State of California
  County of San Francisco, Case No. CGC-09-490977
- **Amanda Quiles, et al v. Koji's Japan Incorporated, et al. (2014)**
  Superior Court of the State of California, County of Orange, Case No. 30-2010-00425532-CU-OE-CXC
- **Ming-Hsiang Kao v. Joy Holiday, Joy Express, Inc., et al. (2014)**
  Superior Court of the State of California
  County of San Mateo, Case No. CIV509729
- **Salinas, et al. v. Imperial Irrigation District (2014)**
  Superior Court of the State of California
  City and County of Riverside, Case No. 10017367
- **Amerman v. Gurvinder Musafar (2013)**
  Superior Court of the State of California
  County of Santa Clara, Case No. 112CV226364
- **Michael J. Pexa v. Farmers Group, Inc. (2012)**
  Superior Court of the State of California
  County of Sacramento, Case No. 34-2009-00034950
- **Marina Puchalski and Rajeev Chhibber v. Taco Bell Corp. (2012)**
  Superior Court of the State of California
  County of San Diego, Case No. GIC 870429
- **Maria Martinez and Juana Guzman v. Jatco, Inc. (2011)**
  Superior Court of the State of California
  County of Alameda, Case No. RG08397316

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Testimony

Deposition

- **Sanchez, et al. v. McDonald's Restaurants of California, Inc. (2015)**
  Superior Court of the State of California
  County of Los Angeles, Case No. BC499888
- **Betelhem Shiferaw v. Sunrise Senior Living Management, Inc. (2015)**
  U.S. District Court, Central District of California
  Case No. 2:13-cv-02171-JAK-PLA
- **Honora Keller et al v. The Board of Trustees of California State University (2015)**
  Superior Court of the State of California
  County of San Francisco, Case No. CGC-09-490977
- **Ming-Hsiang Kao v. Joy Holiday, Joy Express, Inc., et al. (2014)**
  Superior Court of the State of California
  County of San Mateo, Case No. CIV509729
- **Fraser, et al. v. Patrick O'Connor & Associates, L.P. (2014)**
  U.S. District Court, Southern District of Texas
  Case No. 4:11-cv-03890
- **Salinas, et al. v. Imperial Irrigation District (2014)**
  Superior Court of California, City and County of Riverside, Case No. 10017367
- **Smith, et al. v. Family Video Movie Club, Inc. (2013)**
  U.S. District Court, Northern District of Louisiana
  Case No. 1:11-cv-01773
- **Lang v. DirecTV, Inc. (2013)**
  U.S. District Court, Eastern District of Louisiana
  Case No. 2:10-cv-01085-NJB-SS
- **Sabas Arredondo, et al. v. Delano Farms Company, et al. (2013)**
  Eastern District of California, Fresno Division
  Case No. 1:09-cv-01247-LJO-DLB
- **Gabriel Fayerweather v. Comcast Corporation (2012)**
  Superior Court of the State of California
  County of San Diego, Case No. C-08-01470
- **Green v. Konica Minolta Business Solutions U.S.A., Inc. (2012)**
  U.S. District Court, Northern District of Illinois
  Eastern Division, Case No. 11-CV-03745 (N.D. Ill.)
- **Marina Puchalski and Rajeev Chhibber v. Taco Bell Corp. (May 2012)**
  Superior Court of the State of California
  County of San Diego, Case No. GIC 870429
- **Marina Puchalski and Rajeev Chhibber v. Taco Bell Corp. (April 2012)**
  Superior Court of the State of California
  County of San Diego, Case No. GIC 870429
- **Martin Marine v. Interstate Distributor Co. (2012)**
  Superior Court of the State of California
  County of Alameda, Case No. RG073582777
- **Maria Martinez and Juana Guzman v. Jatco, Inc. (2011)**
  Superior Court of the State of California
  County of Alameda, Case No. RG08397316

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David M. Breshears, CPA/CFF

Selected Case Experience

- Engaged as damage expert by plaintiff, to analyze and quantify; meal and rest period claims, improper distribution of gratuities, and off-the-clock hours, for an upscale restaurant chain.
- Engaged as damage expert by defendant, a farm labor contractor, to evaluate claims related to off-the-clock hours worked and expense reimbursement for small tools for over 20,000 employees.
- Engaged as neutral accounting expert by plaintiff and defendant to calculate potential unpaid hours worked and additional overtime premiums for commission bonuses, for a manufacturing/engineering firm.
- Expert for the plaintiff. Retained to determine the frequency and magnitude of time shaving claims of a mid-size manufacturing firm.
- Provided consulting services to defense counsel in a class-action wage and hour matter, which alleged that hundreds of County employees were paid improper overtime wages under the FLSA. Prepared analyses using hours worked records, compensation data, employee records, and other data to determine the proper calculation of employees' regular rate of pay and related overtime compensation.
- Assisted counsel in preparing a case involving unpaid overtime, meal and rest break violations, and off-the-clock time for an employee of a hotel chain. Reviewed employment history files, time records, and other documents to determine the number of potential violations and to quantify damages.
- Assisted expert for plaintiffs' counsel in a class-action wage and hour matter, which alleged that over 250 small business banking officers were improperly classified as exempt. Reviewed statistical sample of hours worked, salary and commission related earnings, paid time off records, and other data to determine the damages related to unpaid overtime and missed meal breaks.
- Assisted expert for plaintiffs' counsel in a class-action matter against a fortune 500 company, which alleged that a class of several hundred individuals was misclassified as independent contractors in the state of Washington. Prepared analysis of average earnings across all class members and performed comparison to national averages for similarly situated employees and independent businesses. Performed business valuation services to determine economic value of independent contractor assets and to incorporate any discounts that may apply related to the controls and requirements of the customer/employer operating agreement.
- Assisted expert for plaintiffs' counsel in a class-action matter against a Fortune 500 company, which alleged that over 75,000 California employees were required to pool their tips with supervisory employees in direct violation of the California Labor Code.
- Provided consulting services to plaintiffs' counsel in a class-action wage and hour matter, which alleged that hundreds of employees were not paid the proper "living wage" in accordance with the company's contractual obligation. Created a database of hours worked and earnings information from paper and electronic records, and then providing damages estimates based on a variety of assumptions and legal theories.
- Advised counsel on class certification issues by applying economic and statistical approaches to analyze evidence relating to class member variation, if any, and to determine both liability and damages.
- Consulted for Health Provider in a dispute involving a guaranteed maximum price contract for the construction of various structures. Assisted the expert in analyzing construction costs incurred and calculating the amount due to the general contractor.

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David M. Breshears, CPA/CFF

Selected Experience continued

- Performed statistical and contractual analysis for labor settlement or arbitration purposes, including analysis of pay and benefits, job content, productivity, labor costs, and profitability.
- Consulted clients in their efforts to identify overpayments of construction projects; discover errors and identify unreasonable project charges; identify weaknesses in contractual agreements; reduce risks of fraud, waste, and abuse; and recover payments made in error.
- Prepared financial analyses in connection with assignments involving fraud, contract disputes and lost profits.
- Performed extensive research for a variety of cases, including cases involving fraud, contract disputes, and lost profits.
- Created various databases and/or tested the accuracy of databases created by others in order to assimilate large amounts of information to be presented in a meaningful manner.
- Managed audit engagements from planning to reporting, including delegation and review of staff assignments and control of time and expenses.
- Prepared and examined financial reports including research and analysis of technical accounting issues.
- Analyzed client accounting systems and related controls and developed specific recommendations for improvements.

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EXHIBIT B

Saechao v. Landry's Inc. et al
Exhibit B: Documents Considered

DE 15 FAC.pdf: First Amended Complaint
DE 45 Stip re PO: Stipulated Protective Order and [Proposed] Order
DE 47 Protective Order: Order Approving Stipulated Protective Order Subject to Stated Conditions
SPENGER'S000001 - SPENGER'S000009
SPENGER'S000332 - 001038 [Punch Data 2011 - 2012]
SPENGER'S001039 - 001614 [Punch Data 2013 - 2015]
SPENGER'S002570
SPENGER'S002571
SPENGER'S002572
SPENGER'S002573
SPENGER'S001616 - SPENGER'S002569
[SPENGER'S002622 - 003060] 2014 Non-DD Pay Slips - Names Redacted
[SPENGER'S003061 - 004039] 2014 DD Pay Slips - Names Redacted
[SPENGER'S004040 - 004373] 2015 Non-DD Pay Slips - Names Redacted
[SPENGER'S004374 - 005046] 2015 DD Pay Slips - Names Redacted
SPENGER'S007264-7673
SPENGER'S008143-8509
SPENGER'S065390-065394: June 2011 ADP Master Control Compnay Options
SPENGER'S63813-3831
SPENGER'S63832-3873
SPENGER'S63874-3892
SPENGER'S63893-3934
SPENGER'S63935-3977
SPENGER'S63978-3998
SPENGER'S63999-4041
SPENGER'S64042-4065
SPENGER'S64066-4084
SPENGER'S64085-4123
SPENGER'S64124-4143
SPENGER'S64144-4162
SPENGER'S64163-4202
SPENGER'S64203-4225
SPENGER'S64226-4264
SPENGER'S64265-4285
SPENGER'S64286-4308
SPENGER'S64309-4347
SPENGER'S64348-4371
SPENGER'S64372-4390
SPENGER'S64391-4411
SPENGER'S64412-4430
SPENGER'S64431-4449
SPENGER'S64450-4465
SPENGER'S64466-4484
SPENGER'S64485-4505
SPENGER'S64506-4523

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Exhibit B: Documents Considered

SPENGER'S64524-4540
SPENGER'S64541-4556
SPENGER'S64557-4572
SPENGER'S64573-4593
SPENGER'S64594-4614
SPENGER'S64615-4632
SPENGER'S64633-4651
SPENGER'S64652-4668
SPENGER'S64669-4687
SPENGER'S64688-4701
SPENGER'S64702-4717
SPENGER'S64718-4733
SPENGER'S64734-4751
SPENGER'S64752-4769
SPENGER'S64770-4790
SPENGER'S64791-4809
SPENGER'S64810-4828
SPENGER'S64829-4846
SPENGER'S64847-4865
SPENGER'S64872-4890
SPENGER'S64891-4929
SPENGER'S64930-4948
SPENGER'S64949-4988
SPENGER'S64989-4993
SPENGER'S64994-5009
SPENGER'S65010-5049
SPENGER'S65050-5070
SPENGER'S65071-5108
SPENGER'S65109-5125
SPENGER'S65126-5164
SPENGER'S65165-5180
SPENGER'S65181-5220
SPENGER'S65221-5241
SPENGER'S65242-5279
SPENGER'S65280-5298
SPENGER'S65299-5336
SPENGER'S65337-5355
SPENGER'S65356-5389